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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,909	12/07/2000	Reto Hugli	00-679	5699

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EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/674,909

Applicant(s)

HUGLI ET AL.

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This is the first Office Action for application number 09/674,909 Supporting Fastening Device for Contact Wires, filed on 11/30/2000. Claims 1-14 are pending. This application claims priority to Germany 198 20 598.8, dated 5/8/1998.

### ***Information Disclosure Statement***

The information disclosure statement submitted on 11/30/00 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Claim Objections***

Claim 12 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend on two claims such as claim 10 and claim 12 as set forth in claim 12. See MPEP § 608.01(n).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 14, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "preferably" renders the claim indefinite because it is unclear whether or not the limitation is a positive limitation or a functional statement.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear how the support portion could have a portion which is double T-shaped. The specification and the drawings show the support portion when connected to the coupling element that resembles the shape of a double-T.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5145132 to Kirschner.

The patent to Kirschner discloses a supporting and fastening arrangement for which could be used for contact wires having a one-piece elongate support portion (30, 102) which can be fixed by means of suitable fastening means to a wall and a one piece coupling element (100, 104), for connecting the support portion (30, 102) to a bracing tube, wherein the support portion (30, 102) has a preferably central first recess (114) which is provided to co-operate with a matching connecting portion (108) of the coupling element and which is adapted to make a connection which can be plugged in and released and which is secured in respect of rotation and which is fixed when placed under a tensile and/or pressure loading.

Kirschner also shows wherein the support portion (102) and the connecting portion (100, 104) has a profile which is in the shape of a double-T-shaped configuration. (Fig. 3 shows that when more than one support portion (30) is attached to the coupling element (100, 104) the view from the top and from the side will both be in the shape of a T, thereby rendering the profile shape a double-T). Kirschner also shows that the support portion has a front and a rearward longitudinal slot (116, 120) in the plane of the first recess and a pair of side portions with a rounded edge in the direction in which the longitudinal slots (116, 120) extend.

Kirschner also shows wherein the device has a second recess (112) which preferably extends perpendicularly to the direction in which the support portion extends and which is such that in a condition of connection to the coupling element a portion of

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the coupling element (110) which engages into the recess and additionally fixes the coupling element, the coupling element (100, 104) having a receiving holder (104) for receiving the support portion (102) and for positively locking the support portion to the connection portion and a pivot portion (100) fitted thereto, for connection to a counterpart coupling portion.

Kirschner shows that the coupling element is in the form of a U-shaped yoke shaped holder (See Fig. 5) near the first recess and is adapted to provide the pivot portion (100) for receiving a rotary pivot part at open leg ends of the holder.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 8, 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 5709057 to Johnson, Jr. et al.

Johnson, Jr. et al shows a supporting and fastening arrangement having an elongate support portion (11) which can be fixed by means of suitable fastening means to a mast, and a coupling element (16, 17) wherein the support portion (28) has a preferably central first opening and/or recess (13A, 15A) which is provided to co-operate with a matching connecting portion of the coupling element and which is adapted to

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make a connection which can be plugged in and released and which is secured in respect of rotation and which is fixed when placed under a tensile and/or pressure loading.

Johnson, Jr. et al also shows a U-shaped fork element (16) or bar element (19) which is such that with a central connecting portion can be fitted non-rotatably into longitudinal slots (13A, 15A) of the support portion which can also be fixed by means of a sleeve element (11) to a tube end, the bar portion (19) of the bar element (19) is of such dimensions that in an assembled condition it projects through the longitudinal slots (13A) and non-rotatably fixes the bar element when under a tensile loading relative to the support portion (11). Johnson, Jr. et al. also discloses where the support portion jointly cooperates with a fork element (16) and a bar element (19).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5709057 to Johnson, Jr. et al. as applied to claims 1 and 8 above, and in view of Japanese Patent No. JP406010450A to Hashiguchi.

Johnson, Jr. et al. discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that free legs of the fork element are of such dimensions that in an assembled condition they project through the first opening and non-rotatably fix the fork element when under a tensile loading relative to the support portion (28).

Hashiguchi shows a support element (A1) for attaching to a surface which has a central opening (1a) which and a fork element (6) which project through the first opening (1a) and non-rotatably fix the fork element when under a tensile loading relative to the support portion (28), used to hold the fork element securely to the support element and to also be detachable. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Hashiguchi to have modified the fork element and support element of Johnson Jr. et al. to have had modified the recess to be an opening to which the fork element projects through in order to hold the fork element securely to the support element and to also be detachable.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5709057 to Johnson, Jr. et al. as applied to claims 1 and 8 above, and in view of United States Patent No. 5145132 to Kirschner.

Johnson, Jr. et al. discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the fork or bar element has a female screwthread.

Kirschner shows a supporting and fastening arrangement which has a fork device (100, 104) which has the fork portion with a female screwthread for securably



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fastening the bracing device to the arrangement. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Kirschner to have screwthread in the device of Johnson, Jr. et al. in order to more securely fasten the desired devices.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

#### US Patents

5826849 to Johnson et al. shows a support device with projecting fork through opening.

5642612 to Hughes shows a support device

5387033 to Domenig shows a support device with recess

5154382 to Hoshino shows a support device with fork

5007603 to Kirschner shows a sway brace support device

5004193 to Kirschner shows a sway brace support device

4247069 to Kurz shows a support device with fork

4034946 to Zimmer, Jr. shows a support device with fork

3570794 to Kirschner shows a sway brace support device

3134978 to Arvay, Jr. shows a support device

2248410 to Moeller shows a support device

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PCT

WO 95/04896 to Balfour shows a support device with threads

UK Patent

GB 2 262 432 A to Jackson shows a support device with bar projecting through an opening

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-305-3597 or 703-305-3598 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
5/15/03



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER